

CLOSED, RULE5

**U.S. District Court**  
**District of Minnesota (DMN)**  
**CRIMINAL DOCKET FOR CASE #: 0:09-mj-00464-FLN-2**

Case title: USA v. Ochenge et al

Date Filed: 11/17/2009

Date Terminated: 11/20/2009

Assigned to: Magistrate Judge Franklin  
L. Noel**Defendant (2)****Robert M Otiso**

TERMINATED: 11/20/2009

represented by **Lynne A Torgerson**

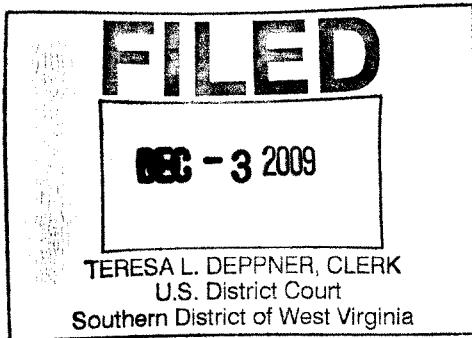
Torgerson Law Office

12 6th St S Ste 1053

Mpls, MN 55402

612-339-5073

Email: ltorgerson@visi.com

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED***Designation: Retained*

A true printed copy in 3 sheet(s)  
 of the electronic record filed on 11/30/09  
 in the United States District Court  
 for the District of Minnesota.

CERTIFIED, 11/30, 2009

RICHARD D. SLETTEN

BY: Hou Simeon  
Deputy Clerk**Douglas Olson**

Office of the Federal Defender

300 S 4th St, Ste 107

Minneapolis, MN 55415

612-664-5858

Fax: 612-664-5850

Email: doug\_olson@fd.org

TERMINATED: 11/24/2009

*Designation: Public Defender or  
Community Defender Appointment***Katherian D Roe**

Office of the Federal Defender

300 S 4th St Ste 107

Mpls, MN 55415

612-664-5858

Fax: 612-664-5850

Email: katherian\_roe@fd.org

TERMINATED: 11/18/2009

*Designation: Public Defender or  
Community Defender Appointment*

Pending CountsDisposition

None

Highest Offense Level (Opening)

None

Terminated CountsDisposition

None

Highest Offense Level (Terminated)

None

ComplaintsDisposition

18:1349.F

Plaintiff

USA

represented by **David M Genrich**  
 United States Attorney's Office  
 300 S 4th St Ste 600  
 Mpls, MN 55415  
 612-664-5600  
 Fax: 612-664-5786  
 Email: david.genrich@usdoj.gov  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
11/17/2009		Arrest (Rule 5) of Robert M Otiso (KNK) (Entered: 11/18/2009)
11/17/2009	<u>2</u>	Minute Entry for proceedings held before Magistrate Judge Franklin L. Noel:Initial Appearance in Rule 5(c) (3) Proceedings as to Robert M Otiso held on 11/17/2009; Counsel to be appt'd; Charges from another District: Southern District of West Virginia, Charleston; Temporary Detention Ordered; ( Detention Hearing and Removal Hearing set for 11/19/2009 01:30 PM in Courtroom 9W (MPLS) before Magistrate Judge Franklin L. Noel.) (KNK) (Entered: 11/18/2009)
11/17/2009	<u>5</u>	DOCUMENT FILED IN ERROR/TO BE REFILED - APPLICATION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM: Writ issued and delivered to the USM on 11/17/09; Name of Detainee Collins A. Masese. Signed by Magistrate Judge Franklin L. Noel on 11/17/09. (KNK) Modified text on 11/20/2009 (las). (Entered: 11/18/2009)

11/18/2009	<u>6</u>	ORDER OF TEMPORARY DETENTION as to Michael M Ochenge, Robert M Otiso, Paramena J Shikanda, Albert E Gunga. Signed by Magistrate Judge Franklin L. Noel on 11/18/09. (KNK) (Entered: 11/18/2009)
11/18/2009	<u>10</u>	NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for Robert M Otiso (Olson, Douglas) (Entered: 11/18/2009)
11/19/2009	<u>18</u>	Minute Entry for proceedings held before Magistrate Judge Franklin L. Noel: Removal and Detention Hearing as to Robert M Otiso held on 11/19/2009. Retained Counsel present. Deft had detention hearing and is ordered detained - Govt to submit proposed order. Deft removed to charging district. Removal Order & Commitment to Another District to be Issued. Defendant waived his removal hearing. IRS agent testified. (Court Reporter Jim Trapskin) (las) (Entered: 11/23/2009)
11/19/2009	<u>30</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/19/2009	<u>31</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/19/2009	<u>32</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/19/2009	<u>33</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/19/2009	<u>34</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/19/2009	<u>35</u>	Sealed Document (KNK) (Entered: 11/23/2009)
11/20/2009	<u>19</u>	COMMITMENT TO ANOTHER DISTRICT as to Robert M Otiso. Defendant committed to Southern District of West Virginia. Signed by Magistrate Judge Franklin L. Noel on 11/20/09. cc: USM & Atty Torgerson (las) Modified text on 11/23/2009 (las). (Entered: 11/23/2009)
11/20/2009	<u>20</u>	ORDER OF REMOVAL to Southern District of West Virginia as to Robert M Otiso. Signed by Magistrate Judge Franklin L. Noel on 11/20/09. (las) cc: Atty Torgerson. Modified text on 11/23/2009 (las). (Entered: 11/23/2009)
11/24/2009	<u>36</u>	NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for Robert M Otiso (Torgerson, Lynne) (Entered: 11/24/2009)
11/24/2009	<u>37</u>	ORDER OF DETENTION as to Robert M Otiso. Signed by Magistrate Judge Franklin L. Noel on 11/23/09. (KNK) (Entered: 11/25/2009)

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Case No. 09-MJ-464 (FLN)

A true printed copy in 5 sheet(s)  
of the electronic record filed on 1/12/12  
in the United States District Court  
for the District of Minnesota.

CERTIFIED, 11/30, 200

BY: RICHARD D. SLETTEN  
Deputy Clerk

UNITED STATES OF AMERICA, )  
Plaintiff, )  
v. )  
ROBERT M. OTISO (02), )  
Defendant. )  
BY: Y )  
ORDER FOR DETENTION )

This matter came before the Court on November 19, 2009, for a removal and detention hearing. Defendant Robert M. Otiso ("defendant") was present and represented by his attorney, Lynn Torgerson, Esq. The United States was represented by Assistant United States Attorney David M. Genrich.

Based upon the proceedings at the hearing, including the testimony of Special Agent Matt Schommer of the Internal Revenue Service ("IRS"), arguments of counsel for both parties, and this Court's review of the Pretrial Services report, the Court concludes that there has been a showing by the preponderance of the evidence that no condition or combination of conditions will reasonably ensure the defendant's appearance in District Court in the Southern District of West Virginia. Accordingly, the Court grants the government's motion for detention.

## FINDINGS OF FACT

1. Defendant is charged by Indictment, returned in the Southern District of West Virginia and supported by a grand jury determination of probable cause, with Conspiracy to Commit Mail and

Wire Fraud; Mail Fraud; Wire Fraud; and Conspiracy to Commit Money Laundering.

2. On November 17, 2009, defendant made his initial appearance in this District. The United States moved for pretrial detention and requested a consolidated removal and detention hearing.

3. On November 19, 2009, a consolidated removal and detention hearing was held. Defendant waived an identity and removal hearing under Fed. R. Crim. P. 5(c)(3)(D). The government persisted in its motion for detention, and defendant opposed the motion.

4. The government called IRS Special Agent Matt Schommer to testify. Following examination of Agent Schommer by counsel for the government and defense, the government rested. Defendant then rested.

5. The testimony of Agent Schommer is incorporated by reference herein.

6. Agent Schommer testified about a series of documents recovered during a search warrant executed at defendant's Elk River, Minnesota, residence on November 17, 2009. Those documents were marked as Government's Exhibit 1; received by the Court without objection only for purposes of the detention hearing; and are incorporated by reference herein.

7. Among the documents received in Exhibit 1 was a purchase and sale agreement dated November 4, 2009, referencing the transfer of property in the country of Kenya. Defendant is listed as one of the buyers, and the transaction date is consistent with the dates of defendant's most recent travel to and from Kenya.

8. Also among the documents received in Exhibit 1 were various business cards and banking documents associated with Kenyan businesses and financial institutions.

9. Also among the documents received in Exhibit 1 were addresses, wire transfer information, and bank account information associated with overseas wire transfers of funds and with transactions alleged in the Indictment to be part and parcel of the alleged scheme to defraud.

10. Also among the documents received in Exhibit 1 were "head shot" photographs commonly associated with passports and other identification documents. The photographs were of persons unknown. Agent Schommer testified, consistent with paragraph 28 in the Indictment, that false identification documents, to include a passport and Social Security card, were used by defendant and a co-conspirator in the alleged scheme to defraud.

11. The nature and circumstances of the alleged offenses outlined in the indictment include defendant's sophisticated use of false identification documents and financial transactions to accomplish, along with his alleged co-conspirators, the fraudulent

diversion of hundreds of thousands of dollars. The Indictment alleges and Agent Schommer testified that hundreds of thousands of dollars were transferred to, and may be accessible to defendant in, a bank account(s) in Kenya as a result of the fraud.

12. The Pretrial Services Report does not indicate that defendant has any ties to the Southern District of West Virginia, and none of the information presented by either party at the hearing established the existence of any such ties.

**CONCLUSIONS OF LAW**

Based upon the foregoing findings of fact, the Court makes the following conclusion of law:

1. As a result of the foregoing findings of fact, the Court concludes that the government has made a showing by the preponderance of the evidence that no condition or combinations will reasonably assure the appearance of defendant. See 18 U.S.C. 3142(e).

Accordingly,

IT IS HEREBY ORDERED that:

1. The motion of the United States for detention of defendant is granted;

2. Defendant shall be transported by the United States Marshal's Service to the Southern District of West Virginia pursuant to Fed. R. Crim. P. 5 as soon as possible;

3. Defendant is committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending trial;

4. Defendant shall be afforded reasonable opportunity to consult privately with his lawyer; and

5. Upon Order of the Court or request by the United States Attorney, the person in charge of the corrections facility in which the defendant is confined shall deliver him to the United States Marshal for the purpose of appearance in connection with a court proceeding.

Dated: November 23, 2009

s/ Franklin L. Noel  
The Honorable Franklin L. Noel  
United States Magistrate Judge  
District of Minnesota

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America,

MJ 09-464 FLN

Plaintiff,

v.

ORDER OF REMOVAL

Robert M. Otiso (02),

Defendant.

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David Genrich, ASSISTANT UNITED STATES ATTORNEY, for the plaintiff.

Lynne Torgerson, Esq., for defendant.

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The above captioned case was before the undersigned United States Magistrate Judge for a removal hearing on November 19, 2009. Defendant waived the removal hearing.

Based on defendant's waiver, the court finds that the defendant is the same person named in the warrant filed in the Southern District of West Virginia, and he is ordered removed to that district for further proceedings.

DATED: November 20, 2009

s/ Franklin L. Noel  
FRANKLIN L. NOEL  
United States Magistrate Judge

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of the electronic record filed on 11/20/09  
in the United States District Court  
for the District of Minnesota.

CERTIFIED, 11/30, 2009.  
RICHARD D. SLETTEN  
BY: Hans Sampa  
Deputy Clerk

AO 94 (Rev. 8/97) Commitment to Another District

# UNITED STATES DISTRICT COURT

District of MINNESOTA

UNITED STATES OF AMERICA  
V.  
Robert M. Otiso

## COMMITMENT TO ANOTHER DISTRICT

DOCKET NUMBER		MAGISTRATE/JUDGE CASE NUMBER	
District of Arrest	District of Offense	District of Arrest	District of Offense
	2:09-00251	MJ 09-464 FLN	

### CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

Indictment  Information  Complaint  Other (specify)

charging a violation of 18 U.S.C. § 1349, 1956(h), 1341, 1343, and 2

### DISTRICT OF OFFENSE

Southern District of West Virginia

### DESCRIPTION OF CHARGES:

Conspiracy to commit Mail Fraud and Wire fraud, money laundering,

### CURRENT BOND STATUS:

Bail fixed at \_\_\_\_\_ and conditions were not met  
 Government moved for detention and defendant detained after hearing in District of Arrest  
 Government moved for detention and defendant detained pending detention hearing in District of Offense  
 Other (specify) \_\_\_\_\_

Representation:  Retained Own Counsel  Federal Defender Organization  CJA Attorney  None

Interpreter Required?  No  Yes Language: English

### DISTRICT OF MINNESOTA

### TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

November 20, 2009

Date

s/ Franklin L. Noel

United States Judge or Magistrate Judge

### RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT	DATE DEFENDANT COMMITTED
DATE	UNITED STATES MARSHAL	A true printed copy in <u>1</u> sheet(s) of the electronic record filed on <u>11/20/09</u> in the United States District Court for the District of Minnesota.	

CERTIFIED, 11/30/09, 2009.

BY: RICHARD D. SLETTEN  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	<b>COURT MINUTES - CRIMINAL</b>	
	)	BEFORE: Franklin L. Noel, 9W	
Plaintiff,	)	U.S. Magistrate Judge	
	)		
v.	)	Case No:	MJ 09-464 FLN
	)	Date:	November 19, 2009
Robert M. Otiso (02),	)	Court Reporter:	Jim Trapskin
	)	Time Commenced:	1:45 p.m.
Defendant.	)	Time Concluded:	2:17 p.m.
		Time in Court:	32 Minutes

**☒ REMOVAL/DETENTION HRG**

Time in Court Rem/Det: 1/31

APPEARANCES:

Plaintiff: David Genrich, Assistant U.S. Attorney  
Defendant: Lynne Torgerson  Retained

On  Indictment

Charges from other District: Southern District of West Virginia, Charleston

Deft had detention hearing and is ordered detained - Govt to submit proposed order

Deft removed to charging district

Removal Order to be Issued  Commitment to Another District to be Issued

Additional Information:

Defendant waived his removal hearing.

Matt Schommer, Special Agent, IRS testified.

*s/Joan Flood*  
Criminal Duty Clerk

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of the electronic record filed on 11/19/09  
in the United States District Court  
for the District of Minnesota.

CERTIFIED, 11/30/09, 2009.  
RICHARD D. SLETTEN  
BY: Hollie Samot  
Deputy Clerk

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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UNITED STATES OF AMERICA,

NOTICE OF APPEARANCE

Plaintiff,

v.

ROBERT M. OTISO,

Case No: 09 MJ 464(2) (FLN)

Defendant.

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Pursuant to the Court's order appointing counsel, the undersigned attorney hereby notifies the Court and counsel that Douglas Olson shall appear as appointed counsel of record for the above named defendant in this case.

Dated: November 18, 2009

*s/Douglas Olson*  
Douglas Olson  
Attorney ID No. 169067  
Attorney for Defendant  
Office of the Federal Defender  
107 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

A true printed copy in 1 sheet(s)  
of the electronic record filed on 11/18/09  
in the United States District Court  
for the District of Minnesota.

CERTIFIED, 11/18/09, 2009.  
RICHARD D. SLETTEN  
BY: John S. Murphy  
Deputy Clerk

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,  
Plaintiff,

Case No. MJ 09-464 FLN

v.

ORDER OF TEMPORARY DETENTION  
PENDING HEARING PURSUANT  
TO BAIL REFORM ACT

Michael M. Ochenge (01),  
Robert M. Otiso (02),  
Paramena J. Shikanda (03),  
Albert E. Gunga (04)  
Defendant.

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Upon motion of the United States it is ORDERED that a removal/detention hearing is set for November 19, 2009 at 1:30 p.m. before Magistrate Judge Franklin L. Noel, 9W US Courthouse, 300 South 4th Street, Minneapolis, Minnesota. Pending this hearing, the Defendant shall be held in custody by the United States Marshal and produced for the hearing.

Dated: November 18, 2009

s/Franklin L. Noel  
FRANKLIN L. NOEL  
United States Magistrate Judge

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\* If not held immediately upon Defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the Defendant. 18 U.S.A. §3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. §3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the Defendant (a) will flee; or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injury, or intimidate a prospective witness or juror.

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for the District of Minnesota.

CERTIFIED, 11/30, 2009.  
BY: RICHARD D. SLETTEN  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

**FIRST APPEARANCE**

UNITED STATES OF AMERICA,	)	COURTROOM MINUTES - CRIMINAL
	)	BEFORE: Franklin L. Noel, 9W
Plaintiff,	)	U.S. Magistrate Judge
	)	
v.	)	Case No: MJ 09-464 FLN
	)	Date: November 17, 2009
Robert M. Otiso (02),	)	Time Commenced: 3:17 p.m.
	)	Time Concluded: 3:20 p.m.
Defendant.	)	Time in Court: 3 Minutes

**APPEARANCES:**

Plaintiff: David Genrich, Assistant U.S. Attorney

Defendant: Doug Olson,  FPD  Appointed

Date Charges Filed: November 10, 2009 Offense: Conspiracy to commit mail fraud and wire fraud  
18 U.S.C. § 1349

Charges read into record  Advised of Rights

on  Indictment

**Charges from another district: Southern District of West Virginia, Charleston**

Government moves for detention.

Motion is:  granted, temporary detention ordered

Next appearance date is November 19, 2009 at 1:30 p.m. before U.S. Magistrate Judge Franklin L. Noel, 9W for:  
 detention hrg  removal hrg

s/Joan Flood  
Criminal Duty Clerk

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in the United States District Court  
for the District of Minnesota.

CERTIFIED, 11/13/09, 2009.  
RICHARD D. SLETTEN  
BY: Joan Sampson  
Deputy Clerk